IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Letters Patent Appeal No. 229 of 2006

Eknath Narayan Bhoir ..Appellant

vs.

Shri Shalik Laxman Patil
and another ..Respondents

Shri A.A.Garge for appellant.
Shri A.S.Gadkari for respondent no.1
Smt.P.S.Cardoz, A.G.P. for respondent no.2

**CORAM: S.B.MHASE &**
**Smt.NISHITA MHATRE JJ.**
**21st February, 2007**

**P.C.**

1. Heard.

2. Learned Counsel Shri Garge submitted that the matter arises from a dispute in respect of mutation entry no.520 which was made on 17th November,1983 and certified on 6th December, 1983. He submitted that the revision was allowed by Additional Commissioner, Konkan Division and the said order was challenged before the learned single Judge by filing the writ petition and the learned Single Judge by order dated 26th July, 2006 rejected the said petition No.4881 of 2005. The said order of the learned single Judge is challenging by filing the present L.P.A. The learned Counsel submitted that in view of the judgment passed

in L.P.A.No.55 of 2003 against Writ Petition No.7477 of 2002 dated 13th July, 2005, as against the order of the Divisional Commissioner appeal under sec.249 was a proper remedy and, therefore, writ petition itself was not maintainable since substantive statutory remedy was available and he submitted that without exhausting the said remedy writ petition was filed and, therefore, he submitted on instructions that leave to withdraw the L.P.A. be granted with further liberty to approach the learned single Judge for recall of the order dated 26th July, 2006 and to seek liberty to prosecute alternative remedy under sec.249 of the Maharashtra Land Revenue Code. The other side has no objection for granting such leave. Therefore, leave to withdraw the L.P.A.No.229 of 2006 is hereby granted with further leave to make appropriate application before the learned single Judge to recall order dated 26th July, 2006 passed in Writ Petition No.4881 of 2005 with leave to prosecute the remedy under sec.249 by way of an appeal before the State Government is hereby granted. The L.P.A. is accordingly disposed of.

**(Smt.NISHITA MHATRE J.)** **(S.B.MHASE J.)**